

# Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century

## Meeting Summary

April 2, 2019, 3:00 p.m.

Pocahontas Building, Richmond, Virginia

The Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century (the Joint Subcommittee) met on April 2, 2019, at the Pocahontas Building in Richmond. Following opening remarks and an overview of the agenda, the Joint Subcommittee received presentations.

### **Overview of the Work of the Joint Subcommittee and Update on 2018 Recommendations**

Staff provided an overview of the work of the Joint Subcommittee during the 2018 interim, noting that the Joint Subcommittee toured six state mental health facilities and received information and monitored major behavioral health initiatives underway in the Commonwealth, including implementation of STEP-VA, financial realignment of the Department of Behavioral Health and Developmental Services (DBHDS), the Medicaid Behavioral Health Redesign, and activities to address the state hospital bed crisis.

Work Group 1 (Service System Structure and Financing) reviewed the existing publicly funded behavioral health system, receiving presentations on the organization and functions of DBHDS; the role and function of the State Board of Behavioral Health and Developmental Services; DBHDS community services boards (CSBs) performance contract requirements and process; organization and functions of CSBs; CSB services and funding; DBHDS licensing of private behavioral health service providers; private behavioral health service providers' perspectives on the existing publicly funded behavioral health system; and organization and functions of the Department of Medical Assistance Services (DMAS). Work Group 1 also received information on alternative models of service delivery, including presentations on service system structure and financing in other states and other state/local cooperative service delivery systems in the Commonwealth, which include the Virginia Department of Health and local departments of health and the Virginia Department of Social Services and local departments of social services, and received updates on the work of the Service System Structure and Financing Expert Advisory Panel and the work of the stakeholder work group on the state hospital bed crisis.

Work Group 2 (Criminal Justice Diversion) reviewed mental health services in local correctional facilities, including presentations on the quality of health care services in Virginia's jails and prisons and the impact of requiring CSBs to provide mental health services in jails; the 2017-2018 Healthcare Study in Virginia's Jails provided by the L. Douglas Wilder School of Government and Public Affairs, Virginia Commonwealth University; a survey of mental health services in Virginia's jails provided by the Criminal Justice Diversion Expert Panel; an overview of mental health services in Virginia's jails provided by the Virginia Sheriffs' Association; and an overview of mental health services in Virginia's regional jails provided by the Virginia Association of Regional Jails. Work Group 2 also received information about jail diversion efforts in the Commonwealth, including presentations on mental health specialty dockets, the

Virginia Department of Corrections' Secure Diversionary Treatment Program, and DBHDS's Criminal Diversion Programs.

**PRESENTATION: Update on 2019 Behavioral Health Reviews by the Joint Legislative Audit and Review Commission Health and Human Resources Unit**

Jeff Lunardi, Unit Director, Health and Human Resources, Joint Legislative Audit and Review Commission, provided an update on 2019 behavioral health reviews by the Joint Legislative Audit and Review Commission (JLARC). The 2017 Appropriation Act requires JLARC to conduct ongoing reviews and evaluations of agencies and programs of the Health and Human Resources (HHR) secretariat. JLARC's HHR Unit was created in response to the Appropriation Act requirement. The HHR Unit studies topics referred to it by JLARC. Members of the General Assembly and legislative commissions, committees, joint committees, subcommittees, and joint subcommittees may request studies. JLARC considers input from the Joint Subcommittee for HHR Oversight when determining which studies to refer to the HHR Unit. During the 2018 interim, JLARC referred two studies to the HHR Unit: a review of CSB funding requested by the Joint Subcommittee and a review of implementation of STEP-VA. In addition to these studies, the HHR Unit will also continue to monitor and provide oversight of expansion of the Commonwealth's program of medical assistance (Medicaid) and will support work on individual insurance market reforms conducted by the Joint Subcommittee for HHR Oversight.

The HHR Unit's study of STEP-VA will evaluate the extent to which initial implementation enables CSBs to meet STEP-VA's overall goals and whether adequate steps have been taken to support full implementation of STEP-VA by 2021, as required by the enabling legislation. The HHR Unit has conducted interviews with DBHDS staff, reviewed STEP-VA planning and budget documents, collected CSB perspectives on implementation and planning through a survey, interviews, and site visits, and reviewed other states' implementation of similar transformations. The HHR Unit's final report on the study of implementation of STEP-VA is expected in June.

The HHR Unit's review of CSB funding will provide an inventory of all funding sources for each CSB, identify criteria used by DBHDS to allocate funds to CSBs, identify alternative models for funding public behavioral health services in other states and other public services in the Commonwealth, and evaluate the potential impact of adopting alternative models to fund public behavioral health services in the Commonwealth. In conducting its study, the HHR Unit will analyze budget and spending data from all 40 CSBs in the Commonwealth, review documents related to funding and structure, conduct interviews with program staff to understand other states' approaches to funding behavioral health services and other models for funding public services in the Commonwealth, and conduct a sensitivity analysis on how adoption of alternative funding approaches for behavioral health services would impact the Commonwealth's CSBs. The HHR Unit's final report on CSB funding is expected in June.

**PRESENTATION: Proposed Plan to Replace Central State Hospital**

Joe Flores, Deputy Secretary of Finance, presented information on the Governor's proposed plan to replace Central State Hospital. Joe Damico, Director of the Department of General Services, and Dr. Hughes Melton, Commissioner of Behavioral Health and Developmental Services, provided additional information.

The Governor's proposed budget for Fiscal Year 2019 included language requiring development of a detailed design to replace Central State Hospital. The proposed facility included 300 beds, with 111 designated maximum security beds and 189 designated civil beds for acute care and nonviolent forensic patients. The Governor's proposed budget included \$16 million for development of the design, with a requirement that the facility be completed and online within seven years.

The budget conference report agreed to by both houses of the General Assembly eliminated the planning requirement and funding for the new Central State Hospital and instead included a requirement that DBHDS convene a work group to, among other things, develop a conceptual plan to "right size" the state hospital system. DBHDS was tasked with determining future capacity requirements and appropriate distribution of capacity and developing a proposal for the construction of a new Central State Hospital that fit within the requirements of the "right-sized" system. DBHDS was directed to report its conclusions and the details of the plan by November 1, 2019. No additional funds were included for the planning or construction of the new Central State Hospital.

The Governor's proposed amendment to the conference report retained language requiring DBHDS to develop a plan to "right size" the state hospital system and added language authorizing construction of a new Central State Hospital. The new proposal called for a 252-bed facility, including 111 maximum security beds and 141 civil beds for acute care and nonviolent forensic patients, with infrastructure to accommodate 48 additional acute care beds if necessary. The new proposal also required DBHDS to address the feasibility of relocating forensic beds to state-owned property other than Central State Hospital. The proposed amendment did include funds for detailed design, construction, and furniture, fixtures and equipment within a \$315 million bond authorization, and called for completion of the project in a shorter, five-year timeframe. The proposed new Central State Hospital would consist of a single new building, similar to Eastern State Hospital, with new utility connections and systems, consolidating living units, programs, and support in a single facility. Currently, Central State Hospital consists of 23 aging buildings on a 600-acre campus, creating a number of logistical challenges. The proposed facility would require 30 to 40 acres, making the balance of the property available for surplus declaration and sale.

## **PRESENTATION: Update on Activities of the Department of Behavioral Health and Developmental Services**

S. Hughes Melton, M.D., M.B.A., Commissioner, Department of Behavioral Health and Developmental Services, provided an update on DBHDS's activities related to behavioral health. Dr. Melton described activities related to implementation of STEP-VA; the Medicaid Behavioral Health Redesign; DBHDS crisis services; the state hospital bed census; convening of the work group required by SB 1488 (Hanger); the community needs assessment; the financial realignment; CSB general fund reductions; mental health services in jails; and implementation of alternative transportation for individuals subject to emergency custody orders.

### **Implementation of STEP-VA**

Implementation of STEP-VA is underway, with same-day access available statewide in March 2019 and primary care integration on track to be launched July 1, 2019, as required by the enabling legislation. Statewide access to crisis services and outpatient behavioral health services

will also launch July 1, 2019, two years ahead of schedule, while planning for psychiatric rehabilitation, peer and family support, veterans' behavioral health, care coordination, and targeted case management services already underway with a goal of implementation by July 1, 2021. To facilitate implementation, DBHDS has established a STEP-VA Advisory Council tasked with planning for a guiding implementation and coordinating with stakeholders.

### Behavioral Health Redesign

DBHDS is working with DMAS to redesign behavioral health services funded by the Commonwealth's program of medical assistance (Medicaid). The Farley Center report describing a comprehensive continuum of behavioral health services that will provide long-term financial stability for STEP-VA and align with behavioral health initiatives of multiple state agencies, transitioning from a crisis-driven system to a system focused on prevention and early intervention, was presented to stakeholders in January 2019. DBHDS and DMAS are currently engaged in planning and preparation for implementation of the proposed plan.

### Crisis Services

The Governor's proposed budget for Fiscal Year 2019 included \$7.8 million for mental health crisis services. The proposed services would align with national best practices, reduce use of hospital emergency departments, dramatically reduce unnecessary jail time, reduce trauma to individuals, and result in fewer unnecessary hospitalizations and fewer state psychiatric admissions for competency restoration. Key elements of the proposed program include a mobile crisis hotline, centrally deployed mobile crisis services available at all times, residential crisis stabilization programs, and comprehensive crisis services for children.

### State Hospital Bed Census

As of April 1, the census at each of the Commonwealth's state hospitals was over 85 percent of capacity, the level considered safe for patients and staff. The census at seven of the nine facilities was greater than 90 percent, with the census at Catawba at 95 percent of capacity, Eastern State Hospital at 98 percent of capacity, and Piedmont Geriatric Hospital at 100 percent of capacity. While funding for additional beds has been provided, average bed needs are increasing at a rate of 28.4 beds per year and will quickly exceed the new capacity if nothing is done to change the trend.

### SB 1488 (Hanger) Work Group

SB 1488 (Hanger) (Chapter 609, Acts of Assembly of 2019) directed the Secretary of Health and Human Resources to convene a stakeholder work group to examine the causes of the high census at the Commonwealth's state hospitals for individuals with mental illness, including (i) the impact on such census of the practice of conducting evaluations of individuals who are the subject of an emergency custody order in hospital emergency departments, the treatment needs of individuals with complex medical conditions, the treatment needs of individuals who are under the influence of alcohol or other controlled substances, and the need to ensure that individuals receive treatment in the most appropriate setting to meet their physical and behavioral health care needs and (ii) the potential impact on such census of extending the time frame during which an emergency custody order remains valid, revising security requirements to allow custody of a person who is the subject of an emergency custody order to be transferred from law enforcement to a hospital emergency department, diverting individuals who are the subject of an emergency custody order from hospital emergency departments to other more

appropriate locations for medical and psychological evaluations, and preventing unnecessary use of hospital emergency department resources by improving the efficiency of the evaluation process. The work group is directed to analyze how such issues affect both adults and children and develop recommendations for both long-term and short-term solutions to the high census at the Commonwealth's state hospitals for individuals with mental illness. The work group will report its recommendations to the Chairmen of the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the Twenty-First Century, the House Committee on Appropriations, the House Committee for Courts of Justice, the Senate Committee on Finance, and the Senate Committee for Courts of Justice by November 1, 2019. DBHDS is working with the Secretary's office to convene the work group. The first meeting will be held on April 22, 2019.

### Community Needs Assessment

DBHDS is working with JBS International to conduct a comprehensive Virginia Behavioral Health System Needs assessment focusing on publicly funded behavioral health services at both the state and local level. The goal of the assessment is to assess the need for publicly funded behavioral health services, assess the capacity of the current behavioral health system to meet those needs, recommend systems changes to increase access to care and monitor programs toward the goal of meeting behavioral health needs in the Commonwealth, and support STEP-VA and broader system initiatives such as the behavioral health redesign and efforts to reduce the state hospital census. Ultimately, the assessment will identify community needs, identify workforce needs, highlight effective elements of the publicly funded behavioral health system that can be scaled up statewide as well as gaps in the system and current needs, and facilitate and help determine costs for implementation of STEP-VA and the financial realignment.

### Financial Realignment

DBHDS will use findings from the community needs assessment to guide development of community-based services and redistribution of a portion of state hospital funds to the community, allowing CSBs to purchase appropriate services for individuals in need of services while providing funding to CSBs to build and sustain additional capacity in the community. The financial realignment will change the trajectory of hospital utilization and future choices by building out community discharge services and decreasing the Extraordinary Barriers to Discharge list, changing the financial dynamic to support best practices and cost effectiveness, and transferring funds from state hospitals to CSBs to align costs with service and support needs, ultimately avoiding overspending on hospital beds and improving community capacity.

### CSB General Fund Reductions

As a result of the expansion of the Commonwealth's program of medical assistance (Medicaid), the Appropriation Act of 2018 included a general fund replacement reduction offset for anticipated new Medicaid funding for CSBs. DBHDS is working together with the Virginia Association of Community Services Boards and the CSB Executive Council to develop a methodology to spread the replacement allocation among CSBs. The methodology will take into account anticipated revenue generation with a potential shortfall in revenue distributed based on total CSB revenues. The conference report for HB 1700 requires DBHDS to monitor the impact of Medicaid expansion on CSBs. If the amount of new revenue generated as a result of expansion of the Commonwealth's program of medical assistance is at least 10 percent less than the savings assumed in the Act, the Commissioner is authorized to allocate and disburse up to \$7

million in special funds to replace the unrealized revenue. Additional proposed language will eliminate the \$25 million special cap in Fiscal Year 2019, allowing DBHDS to carry forward funding to support this potential obligation.

### Mental Health Services in Jails

HB 1942 (Bell, Robert B.) (Chapter 827, Acts of Assembly 2019) directs the State Board of Corrections (the Board) to establish minimum standards for behavioral health services in local correctional facilities, including (i) requirements for behavioral health screening and assessment for all individuals committed to local correctional facilities, the delivery of behavioral health services in local correctional facilities, and the sharing of medical and mental health information and records concerning individuals committed to local correctional facilities; (ii) requirements for discharge planning for individuals with serious mental illness assessed as requiring behavioral health services upon release from local correctional facilities; (iii) requirements for at least one unannounced annual inspection of each local correctional facility to determine compliance; and (iv) provisions for billing the sheriff in charge of a local correctional facility or superintendent of a regional correctional facility by a community services board that provides behavioral health services in the local or regional correctional facility. The bill also allows the person in charge of a state, regional, or local correctional facility, or his designee, to receive from a health care provider medical and mental health information and records concerning a person committed to such correctional facility, even when such committed person does not provide consent or consent is not readily obtainable, when such information and records are necessary (a) for the provision of health care to the person committed, (b) to protect the health and safety of the person committed or other residents or staff of the facility, or (c) to maintain the security and safety of the facility. The bill clarifies that the administrative personnel of a state, regional, or local correctional facility may receive medical and mental health information and records from any health care provider concerning any person committed to such correctional facility as necessary to maintain the safety of the facility, its employees, or other prisoners. DBHDS is working together with the Board to carry out the requirements of HB 1942.

SB 1644 (Boysko) (Chapter 685, Acts of Assembly 2019) directs DBHDS to convene a work group to study the issue of and develop a plan for sharing protected health information of individuals with mental health treatment needs who have been confined to a local or regional jail in the Commonwealth and who have previously received mental health treatment from a community services board or behavioral health authority in the Commonwealth. The bill requires DBHDS to report by October 1, 2019, to the Governor and the General Assembly on (i) development of the plan, (ii) the content of the plan, and (iii) the steps necessary to implement the plan, including any statutory or regulatory changes and any necessary appropriations. DBHDS is preparing to convene the work group as directed.

### Alternative Transportation

DBHDS is receiving \$2.5 million in Fiscal Year 2019 and \$4.5 million in Fiscal Year 2020 to implement a statewide alternative transportation program for individuals under a temporary detention order. DBHDS is currently in contract negotiations with a vendor for a phased implementation of alternative transportation, beginning in rural communities, with the goal of statewide implementation in two years. DBHDS hired an Alternative Transportation Coordinator to oversee implementation in March 2019 and is working with stakeholders, including CSBs, law enforcement, magistrates, special justices, and hospitals, to implement the program.

## **Discussion of Work Plan for 2019**

Following presentations, the Joint Subcommittee discussed its work plan for the 2019 interim. Staff provided a list of the various reports to be made to the Joint Subcommittee during the 2019 interim. Members of the Joint Subcommittee agreed that mental health services for children and school-based mental health services should be a priority. Other potential topics for further study include mandatory outpatient treatment, housing, and the impact of Medicaid expansion.

## **Public Comment**

Rhonda Thissen, Executive Director, NAMI-Virginia thanked the Joint Subcommittee for its work and noted that the Department of Education was taking steps to include mental health in the standards of learning.

A citizen thanked the Joint Subcommittee for its work and its proposed focus on children's mental health services. She noted that early intervention in childhood can have significant positive impacts for children and families. She also spoke about the benefits of programs to provide support for family members of individuals with mental illness and noted the detrimental impacts of restraint and seclusion of children with mental health issues in schools.

## **Next Meeting**

The next meeting of the Joint Subcommittee will be held at a date and time to be determined.